

**REMARKS**

The Applicants thank the Examiner for his careful analysis of the application and claims. Claims 1-28 are pending in the application. All of the claims stand rejected under 35 U.S.C §103(a) for being obvious over Chang (US Patent 5,873,263) in view of Boston (US Patent 6,041,263) and Hartman (US Patent 6,041,263). Chang teaches process and equipment for a single method of fluid purification and Boston teaches a method and apparatus for optimizing a plant model. Neither reference teaches a method for ordering or the sale of equipment. Hartman teaches a method for placing a purchase order for items from a pre-existing collection of items via a communications network. The Applicants submit that the combination of references could only be made in hindsight and is therefore improper. Additionally, the Applicants submit that the claimed invention is not obvious in light of the prior art.

A rejection for obviousness under 35 U.S.C. 103(a) requires motivation to combine references. In the MPEP (Section 2143.01) it states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990).

In the prior response, the Applicants submitted that one would not be motivated to combine the Chang and Boston references as they are from non-analogous arts. The Hartman reference is from an art that is even further afield, business methods.

In the MPEP (Section 2141.01(a) it states:

In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d, 1443, 1445 (Fed. Cir. 1992) .

The Chang reference teaches a single, purification apparatus and method, preferably for a single type of fluid, which is theoretically already optimized as a patent requires that the best mode be taught. Boston teaches a method for the optimization of a plant model resulting in optimal parameters, not optimal components. Integration of components in the plant is essential to the method of the invention. Although functional parameters of a single component of the system can be optimized using the method of Boston, the optimization occurs in the context of the plant as a whole. There is no discussion of integration of the purification device of Chang into a larger apparatus or plant. Chang does not suggest that his purification apparatus or method should be sold. Boston teaches the optimization of a model, not the optimization of the selection of components. Theoretical parameters cannot be offered for sale on a web site or by any other means. Hartman teaches a method for selling items via the internet. Although the exact product to be purchased is not specified in Hartman, purification equipment is neither taught nor suggested. Moreover, Hartman teaches the selection of an item from a catalog, not the assembly or optimization of many components for purchase.

The Applicants submit that no motivation exists to combine the references and that such a rejection could only be made with impermissible hindsight. Therefore the rejection under 35 U.S.C. §103 is traversed.

The Applicants further submit that the combination of the Chang, Boston and Hartman references do not make the instant invention obvious. The Examiner states that Chang and Boston do not specifically teach a method for further providing access to a database through an interactive interface of an operating system comprising a series of sequential inquiries, wherein the response to each inquiry determines a next inquiry to be posed or an equipment component to be

specified. The Applicants submit that Hartman teaches a method wherein the client system is provided with an identifier so that a single action (e.g. clicking a mouse button) allows the purchaser to order the item (col 2, lines 51-58). Hartman teaches against the use of a system that asks multiple questions as it is cumbersome, increases overhead and provides an opportunity for sensitive information to become available to unscrupulous individuals (col 2, ln 38-48). In section 2141.02 of the MPEP it states:

A prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. vs. Garlock, Inc.* 721 F.2d 1540, 220 USPQ 303 (Fed. Cir.1983), *cert. denied*, 469 U.S. 851 (1984) (emphasis in original)

Hartman teaches the undesirability, not the desirability of methods that ask multiple questions.

Moreover, in the less desirable system taught by Hartman the series of questions are asked at the incorrect time of the purchasing process. The series of questions do not allow for optimization of the purchase. In the undesirable system taught by Hartman, the purchaser selects items and places them in a shopping cart. The purchaser is presented with a catalog in which s/he may shop freely without the interaction of the purchasing method. At the time of "check out" the purchaser is asked a series of questions. This allows the client to be billed and the items to be shipped. This series of question is asked *after* the items are selected, not as they are being selected, to facilitate their selection to optimize the purchase.

The Examiner states that the previous arguments were moot based on the new rejection. The Applicants submit that the previous arguments are still relevant as they are directed to the impropriety of the combination of the Chang and Boston references, which is still improper. The prior arguments are also directed to the

lack of obviousness of the invention in view of the combination of Chang and Boston. The Applicants submit that the arguments are still relevant as the inclusion of the Hartman reference does not provide motivation to combine the Chang and Boston references or provide the required elements to make the instant invention obvious in view of the two references. Therefore the rejection under 35 U.S.C. §103 is traversed.

The Applicants submit that in light of the forgoing arguments, claims 1 and 28, the independent claims in the case not obvious in light of the prior art. No motivation exists for the combination of the Chang, Boston and Hartman references. Therefore the rejection is improper. Moreover, the instant invention claims a series of sequential inquiries wherein the response to each determines the next inquiry and the collection of responses allows for the optimization of fluid purification equipment. Chang teaches a system that is theoretically already optimized. Boston teaches a method in which the inquiries are iterative and identical at each step, resulting operating parameters rather than objects that can be purchased. Hartman teaches the lack of desirability of ordering systems that ask iterative questions. In these undesirable systems, the questions are asked after the selection of items for purchase is complete to obtain payment and shipping information. The instant invention provides the user with a series of commercially available components to assemble a fluid purification apparatus based on a series of questions asked before the time of purchase. The invention of Boston provides a series of coefficients that may or may not correspond to commercially available components. As claims 1 and 28 are clearly distinguished from the prior art, the remaining dependent claims, claims 2-27, are also distinguished and non-obvious in light of the prior art. Therefore the rejection of claims 1-28 in light of the prior art are traversed.

### FEES

The Applicants believe that no additional is due with this response. However, if an additional fee is due, the Commissioner is entitled to charge any fees to deposit account 02-4070 referencing case number 7184-PA10.

### CONCLUSIONS

In view of the above remarks, it is respectfully submitted that the grounds of rejection have been traversed. The Examiner is therefore respectfully requested to reconsider and withdraw his rejections and allow Claims 1-28; all claims in the case following amendment.

Should the Examiner believe that prosecution of this application might be expedited by further discussion of the issues, he is cordially invited to telephone the undersigned agent for Applicant, collect, at the telephone number listed below.

Respectfully submitted,

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